

MANUAL for

GUARDIANS

Under

Title 11, Revised Code of

Washington

Superior Court for Snohomish County, Washington

2007

Table of Contents

I	Purpose of the Manual — State Law	4
II	Duties and Responsibilities of All Guardians	5
III	Duties of Guardians of the Estate	8
IV	Duties of Guardians of the Person	11
V	Estates of Minors - Blocked Accounts – Annuities	12
VI	Termination of Appointment of a Guardian and/or Guardianship Proceedings.....	14
VII	Court Supervision of Guardianships -Guardianship Monitoring Program (GMP).....	16
	Glossary (Explanation of Terms Used in Manual).....	19
	Checklist for User's Guardianship.....	21
	Obtaining Guardianship Forms on Line.....	23

I. **PURPOSE OF THIS MANUAL – STATE LAW -
DISCLAIMER**

- This manual is to be carefully read and followed by **all persons appointed or about to be appointed as a Guardian** by the Superior Court of the State of Washington for Snohomish County. This includes persons who may have been appointed Guardian several years previously.
- It is based upon Washington State law as codified in the **Revised Code of Washington**, Title 11, Chapters 11.88 and 11.92. These statutes (laws) are referred to as "**RCW**"; for example, RCW 11.88.010, the last three digits being the Section number in the Chapter. This edition is based on laws in effect on **January 1, 2007** which may be changed in the future.
- The Snohomish County Law Library, in Room C-139 of the courthouse and most public libraries in the county **have current copies of the RCW available**.
- A **glossary** explaining the various terms used in this manual is on page 19 and should be referred to for a full understanding.
- A **checklist** is on page 21. Guardians should fill in the blanks on the list to keep track of the dates on which actions and filings in their respective guardianships will be required.
- **Where an asterisk *** follows the name or description of a report or other document to be filed by a Guardian, a **form is available** for the purpose in Dept.D or at the **Guardianship Monitoring Program (GMP)** office at the courthouse. See Section VII regarding that office.

DISCLAIMER. This manual does not cover all duties and responsibilities of a Guardian, nor all laws covering the same.

Neither does it contain the actual text of RCW. In cases in which the instructions or forms are not clear to a Guardian or in complex cases, the GMP or an attorney should be consulted.

II. DUTIES AND RESPONSIBILITIES OF ALL GUARDIANS

- The duties and responsibilities of Guardians in general are set forth in state law (RCW). **A Guardian may be removed and/or held personally and financially responsible for failing to properly carry out and fulfill his/her duties and responsibilities.**
- The particular nature of a Guardian's duties/responsibilities will depend on whether he/she is appointed Guardian of the **Person**, the **Estate** or **both**, and whether the Guardianship is **limited** in any way.
- A Guardian should always obtain from the attorney, if any, handling the Guardianship or the County Clerk a complete copy of the **Order Appointing Guardian** which will contain the rights, duties and limitations in the particular case.
- Every Guardian must file a **notarized sworn oath** to do his/her duty according to State law and, if required by the Order Appointing, a **bond** (RCW 11.88.100). The form of oath requires the Guardian's address and telephone number. Only after this has been done will the Clerk issue **Letters of Guardianship**, which is necessary for completion of the appointment process and before any legal action as Guardian can be taken.
- Every Guardian shall, on appointment, sign and file a **Designation of Standby Guardian*** (RCW 11.88.125) to act when the Guardian is unable to do so, with the name, address and telephone number of such person(s) and shall also give that notice to the person(s) designated as Standby Guardian;

the ward and his/her spouse and adult children; and any facility where the ward resides.

- Most Guardianship proceedings are commenced through an **attorney** who may or may not represent the person(s) appointed Guardian. Attorneys are required to provide their office address and phone number. If a Guardian is not represented by an attorney or if that **attorney withdraws**, which is often the case in guardianship matters, **the Guardian is required to have his/her address and phone number on file with the Court** and is required by the Court to file with the Court a **Notice of Change of Address or Phone Number of Guardian and/or Ward*** within thirty (30) days of such change.
- If both the Guardian and the ward **permanently move their residences out of Snohomish County**, whether within or out of the State of Washington, see Section VI of this manual.
- If the **ward dies** or the **Guardian dies, becomes incapacitated or wishes to resign**, see Section VI of this manual.
- If the ward is a **minor and becomes 18**, see Section V of this Manual.
- All guardianships are subject to oversight and reports to the Court by the **Court's Guardianship Monitoring Program**. See Section VII of this Manual.
- The branch of the **Court supervising most guardianships** is the Court Commissioner assigned to the Guardianship/Probate Calendar, which is held Thursday at 9:00 a.m. in Dept.D. (Schedule may change from time to time, check with Court Administrator's office at 425-388-3421.)

- The various accountings, reports, and other documents required by law **must be dated and personally signed by the Guardian under penalty of perjury.** While the Guardian may rely on others to assist in their completion, making these reports is the Guardian's personal responsibility, which cannot legally be delegated to others. If using forms furnished by the Court, **fill in all blanks,** using "N/A" where the item is not applicable to the particular case.
- **In those cases in which a Guardian's bond has been filed** and a Guardian fails or is claimed to have failed in the performance of his/her duties, the bonding company may be cited by the Court and required to pay, RCW 11.92.056. In almost all cases, the bonding company will have an indemnity agreement requiring the Guardian to reimburse the bonding company.
- In some cases, a **Guardian is required to mail or serve copies of all documents** required to be filed by the Guardian on other persons as stated in the Order Appointing Guardian, RCW 11.88.095(2)(g), or who have filed a Request for Special - Notice of Proceedings, RCW 11.92.150. See also RCW 11.92.180 regarding notice to DSHS where ward is their client.
- The Court may, at any time when the circumstances appear to warrant it, appoint an attorney as **Guardian ad Litem, to investigate and/or commence legal proceedings** on behalf of the ward **against a Guardian, a Guardian's bond, and/or any other person** who may be liable to the ward and/or the ward's Estate, RCW 11.88.090(1); RCW 11.92.050. The fees and expenses of the Guardian ad Litem may, under certain circumstances, be charged against the Guardian and/or others having a duty to the ward or his/her Estate.

III. DUTIES OF GUARDIAN OF ESTATE

The following rules apply to Guardians of Estates **except where the only assets are blocked accounts or annuities for a minor.** (In such cases, see Section V of this manual).

- **Within 90 days** of appointment, a Guardian shall file a verified (sworn) **Inventory*** of all property of the ward with a statement of all encumbrances of or other charges against the same, RCW 11.92.040(1).
- The Guardian shall periodically file a verified (sworn) **Interim Accounting*** RCW 11.92.040(2) and (3). Both the statute (RCW) and the forms provided by the Court on request go into the information to be reported for the accounting period.
 - Unless otherwise ordered by the Court (usually in the Order Appointing Guardian), the **Interim Accounting is to be filed annually,** and in no event less than every 36 months.
 - The **accounting period** is specified by RCW to begin on the "anniversary date" of the Guardian's appointment (date of issuance of Letters of Guardianship) and to end one year (or more if specified by the Court) later.
- In many cases, a Guardian will find it easier to file Interim Accountings on some other periodic basis, such as a calendar year. To **change the accounting period,** the Guardian should file a report from the current anniversary date to the desired beginning date of the next accounting period with a request for the Court's permission to file later accountings on the desired basis. **In no event should the Guardian permit gaps in the interim accounting periods.**

- Interim accountings should be **filed within 90 days** from the ending date of the accounting period, RCW 11.92.040(2). The **period covered** in an accounting must be **clearly stated in the accounting.**
- Bank account statements and similar statements/reports on investment accounts dated on or near the end of the accounting period for the ward or his/her Estate, if any, **should be attached to the Interim Accountings.** A Guardian should retain cancelled checks, receipts, copies of income tax returns, etc., in case of a later "audit" requested by the Court, but they need not be attached to the accounting.
- The **total income, expenses, etc., for the full accounting period,** in the various categories, such as Social Security, interest, room and board, must be stated, as a total for the entire accounting period, although it is helpful to indicate average monthly receipts/disbursements for the various categories. **Significant changes** in the various categories and/or in the value of assets or amount of liabilities from the previous accounting period should be explained.
- If some person or agency **other than the Guardian** is receiving, managing and/or disbursing income, funds or assets of the ward, **it is the duty of the Guardian** to obtain from such person or agency an accounting of the same and attach said accounting to the Guardian's accounting. Such other persons or agencies commonly are a trustee, a representative payee or a care facility. The name, address, phone number and contact person must be furnished.
- In some cases, the Court may make a finding in the Order Appointing Guardian that the Estate has assets of **less than \$3,000.** Per RCW 11.88.100, the Court may provide that a bond be waived, but that if the assets thereafter should exceed \$3,000 or if the ward should have income of more than \$500,

other than state or federal benefits for any three consecutive months, the Guardian is required to report the same to the Court **for a review of the bond waiver.** Despite confusion in the wording of some orders, **this does not waive the periodic accountings required of the Guardian.**

- All accountings/reports are **subject to review** by the Court, which may refer the same to the Guardianship Monitoring Program (GMP). See Section VII of this manual.
- A **Court approval of Interim Accountings** is required in some, but not all, cases. RCW 11.92.050(1).
- **Approval is required for any fees** requested for the Guardian or an attorney to be paid from the Estate; or for expenses not previously authorized. See RCW 11.92.180 regarding fees.
- There may be **other reasons for** a Guardian to seek approval, such as for authorizations for expenditures during the next accounting period.
- **If a Guardian seeks Court approval** of an Interim Accounting, he/she is responsible to note (arrange for) a hearing before the Court and prepare a proposed Order of Approval.
- Whether or not a Guardian seeks Court approval of an Interim Accounting, **the Court may require a hearing and determine whether to approve it** if, after reviewing the accounting, the Court determines the size and condition of the Estate warrants it, RCW 11.92.050(I).
- If the Guardian of the Estate is also Guardian of the person, the **Periodic Status Reports should be filed, along with the Interim Accountings,** RCW 11.92.050(2). See Section IV of this manual regarding such reports.

- Other laws pertaining to the duties and functions of Guardians of Estates not covered above include:
 - **Guardianships Involving Veterans.** See RCW 11.88.160 and RCW Chapter 73.36.
 - **Claims Against the Ward and/or Estate.** See RCW 11.92.035.
 - **Sale of or Other Transactions Involving Property of Ward or Estate.** See RCW 11.92.090 through .125.
 - Guardian's authority for **investment and expenditure of the ward's Estate.** See RCW 11.88.095(2)(f); RCW 11.92.040(4)(5) AND (6); RCW 11.92.140.

IV. **DUTIES OF GUARDIAN OF THE PERSON**

The following rules apply to Guardians of the Person:

- **Within 90 days of appointment,** the Guardian shall file a **Personal Care Plan***, the contents of this Plan are set forth in RCW 11.92.043(1). The Court has a form available for use upon request.
- **Within 30 days,** report any substantial **changes in the ward's condition or residence (address),** RCW 11.92.043(3).
- **File annually,** or where a Guardian of the Estate has been appointed at the time and an Interim Accounting is required to be filed, a **Periodic Status Report***, which updates the Personal Care Plan. The contents of this form are specified in RCW 11.92.043(2), and the form will be furnished by the Court upon request. Unless otherwise specified by the Court, where there is no Interim Accounting to be filed, the annual

reports shall be due on the day and the month the Personal Care Plan was filed, each year thereafter.

- If no Guardian of the Estate has been appointed or no Interim Accounting is required under RCW 11.88.100, a **Statement of Monthly Income*** must be filed with the Status Report.
- Timely **consent to ward's medical care**, RCW 11.92.043(5) and RCW 7.70.065.

V. **ESTATES OF MINORS – BLOCKED ACCOUNTS - ANNUITIES**

Special rules often apply in the guardianships of minor's estates for two reasons: First, the minor ward will usually no longer require a Guardian at age 18; and second, the assets of a minor's estate are often placed with a bank or other financial institution subject to a Court order that the funds may not be released other than as specified in the order. Such accounts are referred to as **"blocked accounts."** In some cases, part or all of the funds are to be used to purchase non-transferable, non-redeemable **annuities** payable after the minor reaches majority.

- Settlements of claims of minors for injuries or loss of a parent, life insurance proceeds, etc. fund most blocked accounts in minor's estates. A **guardian is required** by an order authorizing the use of blocked account(s) to furnish the financial institution with a true copy of the order and **obtain from the institution a properly completed Receipt for Blocked Account and an acknowledgement that the funds may be released only by Court order until the minor's 18th birthday, and file the signed original with the Clerk of the Court within 10 days of** the order unless otherwise ordered by the court. The Court may require the attorney handling the settlement to be responsible also.

Serious consequences may result to the Guardian should this not be complied with.

- A Guardian of a minor's estate in which the funds are held in blocked account(s) **need not file interim accountings unless** the Guardian requests a withdrawal, from such account(s), in which case the Guardian shall provide a verified account to that date, along with the petition for withdrawal, RCW 11.92.040(3).
- In some cases, rather than being placed in blocked account(s), all or part of the funds are utilized to purchase an **annuity, payable only to the minor** on or after he/she becomes 18. A **copy of such annuity** or other written verification of its existence and terms **must be filed in the same manner** as for blocked accounts. This will excuse interim accountings in most cases. Where one or more annuities comprise the entire minor's estate, the Guardian may request the Court to terminate the guardianship and further accounting responsibilities.
- Unless otherwise ordered by the Court, **the guardianship of a minor will terminate at age 18.** That does not relieve a Guardian from making a final report, however. **The Guardian**, to be relieved of further responsibility, must file a final Accounting or may utilize the simpler procedure of **filing a Declaration of Completion and Receipt from Minor***, RCW 11.88.140(2). This form reports the amounts, if any, a Guardian is claiming credit for fees for the Guardian/attorney/accountant and containing **a receipt from the now adult minor** for the funds to which he/she is entitled.
- Oftentimes, there will be **more than one minor ward**, almost always siblings, **of the same guardianship proceedings** and their 18th birthdays will fall on different dates. A Guardian must file a Declaration of Completion and Receipt for each ward, individually, as the respective wards reach age 18.

VI. TERMINATION OF APPOINTMENT OF A GUARDIAN OR GUARDIANSHIP PROCEEDINGS

This section covers the various instances in which (1) the entire guardianship proceedings are terminated, or (2) only the appointment of a particular Guardian is terminated. **The termination of a guardianship proceeding or of an appointment of a Guardian (including resignation) does not, without some form of accounting and an order of the Court, relieve the Guardian from or cancel his or her personal liability** for acts or omissions as Guardian, either before or after termination.

- The cases in which **guardianship proceedings are terminated**, RCW 11.88.140.
 - **A minor ward becomes 18**, see Section V of this manual.
 - **A ward dies**. A Guardian should notify the Court immediately of the date and place of death. Under certain circumstances, a Guardian may pay post death expenses and/or settle and distribute the Estate, RCW 11.88.150.
 - Expiration of term of **limited guardianship**, unless extended.
 - Where it is adjudicated that the **ward's incapacity has terminated**.
 - Where it appears that both the ward and the Guardian(s) **no longer are residents of the State of Washington**, the Court may terminate the guardianship whether or not a request is made, **although the Guardian may remain liable**. If the ward remains in need of a Guardian, one should be applied for in the state where the ward resides and **the assets in the Washington guardianship should be 'transferred by Court order to the new guardianship**.

Where it appears that after a diligent search **neither the Guardian(s) nor the ward can be located**, the Court may revoke the Letters of Guardianship and terminate the proceedings, subject to being reopened upon proper

application.

- Where it appears that both the Guardian(s) and the ward reside in the State of Washington, but not in Snohomish County, the Court may terminate the proceedings in Snohomish **and transfer them to the County in which either a Guardian or ward resides**, RCW 11.88.130.
- **Within 90 days after the termination of a guardianship for any reason**, the Guardian(s) shall **file a final account** with the information required by RCW 11.92.040(2) **and petition the Court for approval**, per RCW 11.92.053. (Minor's estates may be exempt — see Section V.)
- **Where the Guardian's appointment is terminated** but not the guardianship proceedings, the following rules apply:
 - The Court may, upon **the death of a Guardian, or for other good reason**, modify the guardianship or replace the guardian. Other good reasons would include disability or inability to continue to act as guardian, resignation, or removal for dereliction of duty, RCW 11.88.120.
 - A living Guardian whose appointment is terminated is required to **deliver all property and records as** specified in the Court order terminating the appointment. RCW 11.88.120(5); and to, **within 30 days after termination, file a "final" accounting**, RCW 11.92.040(2).

VII. COURT SUPERVISION OF GUARDIANSHIPS — GUARDIANSHIP MONITORING PROGRAM (GMP)

The Court retains jurisdiction over all guardianships and Guardians established by it **until legally terminated and all accounts and other reports required of the Guardian have been filed and approved or otherwise ruled upon.** While this jurisdiction continues, the Court Clerk's office, through its computer system, monitors the filing of the various accountings, reports, and other documents required to be filed by a Guardian and reports to the court when such documents are due.

The American Association of Retired Persons (AARP) has sponsored the establishment of **Guardianship Monitoring Programs (GMP)** in the various courts throughout the nation. That program became operational on May 1, 2000, in Snohomish County. Its functions are as follows:

- To research the official Court files of guardianships referred to it as being delinquent; to **determine the nature of the delinquency(s) and to contact the Guardian(s)** and/or the attorney, if not withdrawn, and/or the bonding company if a bond has been filed, to advise of the delinquency(s) and make arrangements for the delinquent filings to be made. Unfortunately, considerable time is often spent in locating and contacting Guardians and wards. The GMP will often forward to a Guardian forms to complete, sign, and return, and **answer simple questions concerning these forms** (see below on "legal advice." If, after contact with a Guardian, the delinquency(s) are not cured, the matter will be referred to the Court for further action.
- **To review the forms sent in** following a delinquency to determine whether they appear to be adequate; and also to **review accountings and periodic status reports** which may not have been delinquent but which the Court has requested a review prior to determining whether to approve or to set a

hearing on the same. In the latter case, a report with the GMP recommendation will be submitted to the Court. This review process may involve contact with a Guardian as to questions which may arise in the review process.

- **To make "home visits"** to the ward where facts and circumstances may indicate and also on a random basis either on an announced or unannounced basis. Among other things, a home visitor may be able to suggest services which may be available to assist a ward in various ways.
- The GMP is staffed totally by **unpaid volunteers**, who typically are retired or semi-retired and have had experience in business, government, or one of the professions. While they have received training in- guardianships, they are not lawyers and **cannot give legal advice**. They can, however, advise a Guardian of what forms appear lacking in the file, send court published forms which appear appropriate and advise which blanks therein should be completed or information supplied.
- The GMP gathers information for the Court, makes recommendations in some cases, and assists Guardians. **It is not an enforcement agency**. If it should appear to the Court that enforcement action need be taken, the usual practice is to **appoint a lawyer as Guardian ad Litem** (GAL) to pursue some form of legal proceeding against a Guardian, a bonding company, or any other person or institution appearing to be liable to a ward or a ward's estate. **The expenses and fees of the GAL may, when the circumstances justify it, be assessed against a Guardian personally.**

The Snohomish County Superior Court **GMP** is located at Room C-102 of the Courthouse, (425) 388-3284; fax (425) 388-3498; e-mail: guard.monitor@co.snohomish.wa.us
Mailing address:

Guardianship Monitoring Program
Snohomish County Superior Courthouse, M/S 502
3000 Rockefeller Ave.
Everett, WA 98201

Office hours are 9:00 a.m. to noon, Tuesdays and Thursdays, voice mail messages are accepted and usually monitored periodically throughout the week.

GLOSSARY

Accounting: A financial statement of the assets, liabilities, income and expenses of the Estate.

Interim: For the particular period of time covered.

Final: Due upon the termination of the guardianship, or the termination of the Guardian's appointment.

Blocked Account: An account with a bank or other financial institution containing funds which can only be withdrawn by court order as acknowledged by such institution.

Clerk: The official Clerk of the Court, which by law is the Office of the Snohomish County Clerk, 2nd floor, Old Courthouse building. •

File (noun): The official file for any judicial proceeding, including guardianships, maintained under the name of the ward and a nine-digit file number (except some old cases);.

File (verb): To file a document by delivering it to the Clerk's office. (In some instances, the filing may be done by leaving with the GMP office, Room C-102.

Guardian ad Litem: As referred to in this manual, an attorney appointed by the Court to bring legal proceedings -to compel compliance with guardianship laws.

Incapacitated Person: The term used in RCW to refer to a person subject to a guardianship. This manual uses the term "ward."

Letters of Guardianship: A document issued and a seal applied by the Clerk and given to a guardian as evidence of the Guardian's appointment as guardian. Letters may be limited in time, subject to being renewed only if all required filings have been properly made.

Limited Guardian: A guardian whose scope of authority is limited in some particular way.

Serve: The delivery of a document by the court or a party to the Guardianship proceedings to another person or party. In many, but not all instances, "service" may be made by mail, normally to the address in the file for the person or party served and/or his/her attorney.

Sworn: A document which is made under oath before a Notary Public. (See verified).

Verified: A document made "under penalty of perjury" but need not be notarized.

Ward: A person subject to a guardianship for his/her benefit. Used in this manual in place of "Incapacitated Person" which is the term used in RCW.

CHECKLIST FOR GUARDIANSHIP

The Guardian should fill in below the information pertinent to his/her Guardianship for assistance in timely making the filings required by law.

Name of Guardianship: _____ Case #: _____

☐ Person ☐ Estate ☐ Both

Date of Guardian's Appointment: _____ (Anniversary Date)

Accounting/Report Periods: ☐ 1 year ☐ Other _____

Designation of _____ as Standby Guardian ☐ filed
on _____, and ☐ delivered/mailed to _____
on _____ (see *Manual*, page 4 for distribution).

Filings Required for Guardian of Estate:

Inventory (within 90 days of appointment) ☐ Filed: _____

Interim Accounting (see *Manual* pages 7 and 8 and the Order Appointing Guardian to determine the applicable dates).

First Report:

Period to be covered:

Anniversary date _____ to _____ *

Report due (90 days after *) Date: _____

Later changes per Court order: _____

Blocked Accounts/Annuities: File receipt from Financial Institution showing blocked account status or copies of any annuities within 30 days in most cases (see Order and *Manual* pages 11 and 12). Filing date: _____

Filings Required for Guardian of Person:

Personal Care Plan (within 90 days of appointment)

☐ Filed: _____

Periodic Status Report (see *Manual* page 10).

Filing date: _____ each _____ year.

Final Reports (see *Manual*, page 14. Also see page 12 in case of minors reaching 18).

Due within 90 days after termination of guardianship by death or adulthood of ward or any other reason, RCW 11.92.053

Due within 30 days after resignation or removal of guardian
RCW 11.92.040(2) _____

OBTAINING GUARDIANSHIP FORMS ON LINE

The most commonly required Snohomish County Superior Court Guardianship forms are posted for public access on the Superior Court Website at:

WWW1.co.snohomish.wa.us/Departments/Superior_Court/Services/

[forms.htm](#) From the list of forms select the desired report. The forms have been created with Adobe Acrobat® in "PDF" format for ease of viewing and printing.

The required "Viewer" for the format is available free on the web. Use our browser to search for "Adobe Reader". If you experience a problem, please call the GMP at 425-388-3284.

